APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,313	02/28/2002	David Kammer	PALM-3749.US.P	2769

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EXAMINER
JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/086,313	KAMMER ET AL.
	Examiner	Art Unit	
	Jude J. Jean-Gilles	2143	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 July 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>15 October 2002</u> is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This Action is in regards to the Reply received on 07/26/2005.

Response to Amendment

1.   This action is responsive to the application filed on 02/28/2002. Claims 1 and 12 were amended. There are no newly added claims. Claims 1-27 are pending. Claims 1-27 represent a method and apparatus for a "Method for intelligently selecting a wireless communication access point."

Response to Arguments

2.   Applicant's arguments with respect to claims 1, and 12 have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new ground of rejection as explained here below, necessitated by Applicant substantial amendment (i.e., a method wherein in response to an initiator device broadcasting of a wireless message to a plurality of access points) to the claims which significantly affected the scope thereof.

The dependent claims stand rejected as articulated in the First Office Action and all objections not addressed in Applicant's response are herein reiterated.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

be patented and the prior art are such that the subject matter as a whole would have been
obvious at the time the invention was made to a person having ordinary skill in the art to which
said subject matter pertains. Patentability shall not be negatived by the manner in which the
invention was made.

4. **Claims 1-7, and 12-18** are rejected under 35 U.S.C. 103(a) as being unpatentable

over (Bishop) U.S. Patent No. 6,377,782, in view of Labun et al (Labun), U.S. Patent

No. 6,842,621 B2.

Regarding claim 1, Bishop discloses a method of connecting to a wireless

communication access point comprising:

   a) an initiator device broadcasting a first wireless message to a plurality

of potential access point devices, said initiator device storing therein a list of

recognized device addresses for connecting thereto (*column 13, lines 54-67;*

column 14, lines 1-34; note that the initiator here is the NAID);

   b) in response to said initiator device broadcasting said first message said

   initiator device receiving a plurality of second wireless messages

from a set of said plurality of potential access point devices (*column 14, lines 35-*

67);

   c) said initiator device comparing device addresses of said plurality of

second wireless messages for address matches with said list of recognized

device addresses (*column 13, lines 66-67; column 14, lines 1-26; column 23,*

lines 34-67);

   d) applying a fitness function to address matches of said c) to determine

a single address (*column 13, lines 60-67; column 14, lines 1-26; column 23, lines*

34-67); and

   e) connecting to an access point device corresponding to said single

address (*column 13, lines 60-67; column 14, lines 1-26; column 23, lines 34-67*).

   Going back to point c above, Bishop does not teach all the details of this

limitation as asserted by the applicant. However, in the same field of endeavor, Labun

discloses ".. Access points 126, 128, 130 send inquiry messages over wireless links, such as

wireless links 116, 118, 120, for receipt by various mobile stations. If the mobile station 102

wanders to a location where an access point (such as access point 126) is present and

receives an inquiry message from the access point via a wireless link (such as wireless link

116), then the mobile station 102 sends a response message back to the access point via the wireless link ." See [Labun, column 4, lines 43-67]

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Labun's teachings of using an initiator device to broadcast a message in a wireless network, with the teachings of Bishop, for the purpose of "*allowing the system to split control media content from a cellular network connection ...*" as stated by Labun in lines 50-53 of column 1. By this rationale **claim 1** is rejected.

Regarding claim 2, the combination Bishop-Labun discloses the method as described in Claim 1 wherein set of said plurality of potential access point devices is defined by a quantity of device threshold (Bishop; *column 8, lines 18-22; column 23, lines 18-33*).

Regarding claim 3, the combination Bishop-Labun discloses the method as described in Claim 1 wherein set of said plurality of potential access point devices is defined by a time of discovery threshold (Bishop; *column 23, lines 4-33*).

Regarding claim 4, The combination Bishop-Labun discloses the method as described in Claim 1 wherein said fitness function comprises an occupancy level less than a predetermined threshold (see Bishop; column *8, lines 11-22*).

Regarding claim 5, The combination Bishop-Labun discloses the method as described in Claim 1 wherein said fitness function comprises signal strength greater than a predetermined threshold (see Bishop; column *23, lines 18-33*).

Regarding claim 6, The combination Bishop-Labun discloses the method as recited in Claim 1 wherein said fitness function comprises residing within a predetermined physical distance (see Bishop; column *8, lines 51-67*).

Regarding claim 7, The combination Bishop-Labun discloses the method as recited in Claim 1 wherein said initiator device and said responding device are Bluetooth-enabled devices (see Bishop; column *10, lines 44-67*).

Regarding claim 12, The combination Bishop-Labun discloses a wireless communication device comprising:

a bus (*fig. 1, item 730; column 15, lines 32-67*);

a wireless transceiver unit coupled to said bus for communicating with

responding devices (*fig. 7, item 732; column 2, lines 52-64; column 6, 43-53;*

column 15, lines 52-67; column 16, lines 1-5);

a memory cache coupled to said bus (see Bishop; column *15, lines 51-67; fig. 7,*

item 734); and

a processor coupled to said bus, said processor for performing a method

for selecting and connecting to a responding access point device (*fig. 7, items*

726, and 738; column 15, lines 42-67; column 16, lines 1-18), said method

comprising:

a) an initiator device broadcasting a first wireless message to a plurality

of potential access point devices, said initiator device storing therein a list of

recognized device addresses for connecting thereto (see Bishop; column *14,*

lines 35-67);

b) said initiator device receiving a plurality of second wireless messages

from a set of said plurality of potential access point devices (see Bishop; column

14, lines 35-67);

c) said initiator device comparing device addresses of said plurality of

second wireless messages for address matches with said list of recognized

device addresses (see Bishop; column *13, lines 60-67; column 14, lines 1-26;*

column 23, lines 34-67);

d) applying a fitness function to address matches of said c) to determine

a single address; and

e) connecting to an access point device corresponding to said single

address (see Bishop; column *13, lines 60-67; column 14, lines 1-26; column 23,*

lines 34-67).

Regarding claim 13, The combination Bishop-Labun discloses the

method as described in Claim 12 wherein set of said plurality of potential access

point devices is defined by a quantity of device threshold (see Bishop; column *8,*

lines 18-22; column 23, lines 18-33).

Regarding claim 14, The combination Bishop-Labun discloses the

method as described in Claim 12 wherein set of said plurality of potential access

point devices is defined by a time of discovery threshold (see Bishop; column *23,*

lines 4-33).

Regarding claim 15, The combination Bishop-Labun discloses the

method as described in Claim 12 wherein said fitness function comprises an

occupancy level less than a predetermined threshold (see Bishop; column *8,*

lines 11-22).

Regarding claim 16, The combination Bishop-Labun discloses the

method as described in Claim 12 wherein said fitness function comprises signal

strength greater than a predetermined threshold (see Bishop; column *23, lines*

18-33).

Regarding claim 17, The combination Bishop-Labun discloses the method as recited in Claim 12 wherein said fitness function comprises residing within a predetermined physical distance (see Bishop; column *8, lines 51-67*).

Regarding claim 18, Bishop discloses the method as recited in Claim 12 wherein said initiator device and said responding device are Bluetooth-enabled devices (see Bishop; column *10, lines 44-67*).

6. **Claims 8-11, and 19--27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop and Labun as stated in claims 1 and 12 above, further in view of Calvert (Calvert), U.S. Patent No. 6,526,275 B1.

Regarding claim 8, the combination Bishop-Labun discloses the invention as claimed. Bishop teaches the wireless communication access point of claim 1, but does not specifically discloses a method wherein said access point device is coupled to a network comprising a network server.

In the same field on endeavor, Calvert discloses "...a wireless system couple to a context engine server..." [*see Calvert, fig. 1, item 109; column 4, lines 1-33*].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Calvert's teachings of using an access point coupled with a network server, with the teachings of Bishop, for the purpose of "*allowing the system to have desired processing capabilities ...*" as stated by Calvert in lines 25-40 of column 5. By this rationale **claim 8** is rejected.

Regarding claim 9, the combination Bishop-Labun-Calvert discloses the method

of Claim 8 wherein a list of all current network access point addresses is maintained on

said network server [*see Calvert, column 7, lines 45-67; column 8, lines 1-22*]. The

same motivation that was utilized in the combination of claim 8, applies equally as well

to claim 9 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 9** are rejected.

Regarding claim 10, the combination Bishop-Labun-Calvert discloses

the method as recited in Claim 9 wherein said list of access point addresses of c)

is compared to said list of current network access point addresses, any

differences being updated within said list of access point addresses in said

memory cache of said initiator device [*see Bishop, column 14, lines 35-67; see*

Calvert, column.8, lines 23-67]. The same motivation that was utilized in the

combination of claim 8, applies equally as well to claim 10 [*see Calvert, column*

5, lines 25-40]. By this rationale **claim 10** are rejected.

Regarding claim 11, the combination Bishop-Labun-Calvert discloses

the method of Claim 9 wherein said initiator device abstracts said list of access

point addresses into a single abstract name [*see Bishop, column 14, lines 35-67;*

see Calvert, column 8, lines 23-67]. The same motivation that was utilized in the

combination of claim 8, applies equally as well to claim 11 [*see Calvert, column*

5, lines 25-40]. By this rationale **claim 11** are rejected.

Regarding claim 19, the combination Bishop-Labun-Calvert discloses

the method as recited in Claim 12 wherein said access point device is coupled to

a network comprising a network server [*see Bishop, fig. 1, item 109; column 4,*

lines 1-33]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 19 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 19** are rejected.

Regarding claim 20, the combination Bishop-Labun-Calvert discloses the method of Claim 19 wherein a list of all current network access point addresses is maintained on said network server [*see Calvert, column 7, lines 45-67; column 8, lines 1-22*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 20 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 20** are rejected.

Regarding claim 21, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 20 wherein said list of access point addresses of c) is compared to said list of current network access point addresses, any differences being updated within said list of access point addresses in said memory cache of said initiator device [*see Bishop, column 14, lines 35-67; see Calvert, column 8, lines 23-67*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 21[*see Calvert, column 5, lines 25-40*]. By this rationale **claim 21** are rejected.

Regarding claim 22, the combination Bishop-Labun-Calvert discloses the method of Claim 20 wherein said initiator device abstracts said list of access point addresses into a single abstract name [*see Bishop, column 14, lines 35-67; see Calvert, column 8, lines 23-67*]. The same motivation that was utilized in the

combination of claim 8, applies equally as well to claim 22 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 22** are rejected.

Regarding claim 23, the combination Bishop-Labun-Calvert discloses in a wireless communication device having a wireless transceiver and a memory cache comprising a list of access point addresses, a method for updating said list of access point addresses [*see Bishop; fig. 7, items 726, 730, 732, 734, and 738*] comprising:

a) connecting said wireless communication device with a network server, said network server comprising a list of current network access point addresses for a network [*see Calvert, fig. 1, item 109; column 4, lines 1-33*].

b) comparing said list of access point addresses to said list of current network access point addresses [*see Bishop, column 14, lines 35-67; see Calvert, column 8, lines 23-67*];

c) adding to said list of access point addresses in said memory cache of said wireless communication device any addresses found on said list of current network access point addresses and not found on said list of access point addresses [*see Bishop, column 14, lines 35-67; see Calvert, column 8, lines 23-67*]; and

d) deleting from said list of access point addresses in said memory cache of said wireless communication device any addresses not found on said list of current network access point addresses and found on said list of access

point addresses [*see Bishop, column 14, lines 35-67; see Calvert, column 8, lines 23-67*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 23 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 23** are rejected.

Regarding claim 24, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 23 wherein said wireless communication device is a Bluetooth-enabled device [*see Bishop, column 10, lines 44-67*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 24 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 24** are rejected.

Regarding claim 25, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 23 wherein connecting said wireless communication device with a network server comprises connecting through an access point [*see Bishop, fig. 3, items 305-315*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 25 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 25** are rejected.

Regarding claim 26, the combination Bishop-Labun-Calvert discloses the method as recited in Claim 23 wherein said access point is a Bluetooth enabled device [*see Bishop, column 10, lines 44-67*]. The same motivation that was utilized in the combination of claim 8, applies equally as well to claim 26[*see Calvert, column 5, lines 25-40*]. By this rationale **claim 26** are rejected.

Regarding claim 27, the combination Bishop-Labun-Calvert discloses

the method as recited in Claim 23 wherein said wireless communication device is

a portable computer system [*see Calvert, column 4, lines 34-48*]. The same

motivation that was utilized in the combination of claim 8, applies equally as well

to claim 27 [*see Calvert, column 5, lines 25-40*]. By this rationale **claim 27** are

rejected.

REFERENCE Cited

7.   Bishop (Bishop) U.S. Patent No. 6,377,782.

       Calvert (Calvert), U.S. Patent No. 6,526,275 B1

       Labun et al (Labun), U.S. Patent No. 6,842,621 B2.

Response to Arguments

8.   Applicant's Request for Reconsideration filed on 07/26/2005 has been carefully

considered but is not deemed fully persuasive. However, because there exists the

likelihood of future presentation of this argument, the Examiner thinks that it is prudent

to address Applicants' main points of contention.

       A. The Bishop patent fails to disclose or suggest, and is not all related to, a

       method wherein in response to an initiator device broadcasting of a wireless

       message to a plurality of access points with respect to independent **claims 1,**

       and 12.

B. Applicant contends that the and Calvert patent does not further define a
method wherein in response to an initiator device broadcasting of a wireless
message to a plurality of access points .

9.   As to "Point A" it is the position of the Examiner that Bishop in detail teaches the
limitations of the above mentioned claims. However, in view of Labun patent,
Applicant's arguments are deemed moot as explained above [*see labun, column 4, lines*
43-67].

As to "Point B", see point A above.

Conclusion

10. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.
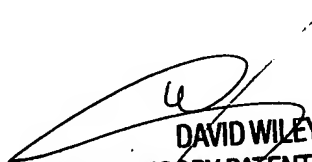
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Jude Jean-Gilles

Patent Examiner

Art Unit 2143

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

JJG

October 15, 2005